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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* ERIC D. BRILL

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Appeal 2010-000301  
Application No. 10/600,797<sup>1</sup>  
Technology Center 2100

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Before MARC S. HOFF, CARLA M. KRIVAK, and  
ELENI MANTIS MERCADER, *Administrative Patent Judges*.

HOFF, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134 from a Final Rejection of claims 1-40, 42, and 43.<sup>2</sup> We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

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<sup>1</sup> The real party in interest is Microsoft Corporation.

<sup>2</sup> Claim 41 has been cancelled.

Appellant's invention concerns systems and methods that filter and/or rank search results from a general-purpose search engine. The filter can be configured for the user group associated with the web client by providing a data set associated with a desired search context (e.g., relevant data) and a data set unrelated to the desired search context (e.g., non-relevant data) to the filter. A tuning component can be trained to differentiate between relevant and non-relevant data for respective entry points. Sites associated with the links selected by the user can be stored, and then employed as relevant data to train the filter. Non-selected higher-ranked sites can be stored and employed as non-relevant data (Spec. 3, 4).

Claim 1 is exemplary of the claims on appeal:

1. A system that refines a general-purpose search engine, comprising:

a component that identifies an entry point that includes a link utilized to access the general-purpose search engine; and

a tuning component that receives search query results of the general-purpose search engine and filters the search results based at least on criteria associated with the entry point through which the general-purpose search engine was accessed, the criteria comprises at least a first set of data categorized as relevant to a user's context and a second set of data categorized as non-relevant to the user's context, wherein user selection of a query result from a ranked list of the query results causes the selected result to be added to the first set of data and causes the results not selected by the user but ranked higher than the selected result to be automatically added to the second set of data, the first and second sets of data persisted to a computer-readable storage medium.

The Examiner relies upon the following prior art in rejecting the claims on appeal:

Pazzani, Michael et al, "Learning and Revising User Profiles: The Identification of Interesting Web Sites," Machine Learning 27, 313-331, (1997)

Joachims, Thorsten, "Optimizing Search Engines using Clickthrough Data," Proceedings of the Eighth ACM SIGKDD International Conference on Knowledge Discovery and Data Mining, 133-142, (2002)

Claims 1-6, 8-16, 18-22, 29-40, 42, and 43 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Joachims.

Claims 7, 17, and 23-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Joachims in view of Pazzani.

Throughout this decision, we make reference to the Replacement Appeal Brief ("App. Br.," filed August 17, 2009), the Reply Brief ("Reply Br.," filed June 24, 2009), and the Examiner's Answer ("Ans.," mailed April 24, 2009) for their respective details.

## ISSUE

Appellant argues, *inter alia*, that Joachims does not teach that user selection of a query result from a ranked list causes the selected result to be added to a first set of data (categorized as relevant to a user's context) and causes the results not selected by the user but ranked higher than the selected result to be automatically added to a second set of data (categorized as non-relevant to the user's context) (App. Br. 8).

Appellant's contentions, and the Examiner's findings, present us with the following issue:

Does Joachims teach a search engine tuning component in which user selection of a query result from a ranked list causes the selected result to be

added to a first set of data (categorized as relevant to a user's context) and causes the results not selected by the user but ranked higher than the selected result to be automatically added to a second set of data (categorized as non-relevant to the user's context)?

## FINDINGS OF FACT

### Joachims

1. Joachims teaches that “[a] click on a particular link cannot be seen as an absolute relevance judgment” (Joachims p. 134, § 2.2).

2. Joachims teaches that “we will depart from a binary relevance scheme” (p. 135, § 3).

3. Joachims further teaches that “[m]ost work on machine learning in information retrieval ... simplifies the task to a binary classification problem with the two classes ‘relevant’ and ‘non-relevant.’ Such a simplification has several drawbacks . . . . Section 2.2 showed that such absolute relevance judgments cannot be extracted from clickthrough data” (p. 136, § 4).

## PRINCIPLES OF LAW

“A rejection for anticipation under section 102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference.” *See In re Buszard*, 504 F.3d 1364, 1366 (Fed. Cir. 2007) (quoting *In re Paulsen*, 30 F.3d 1475, 1478-79 (Fed. Cir. 1994)). Anticipation of a claim requires a finding that the claim at issue reads on a prior art reference. *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1346 (Fed. Cir. 1999) (quoting *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 781 (Fed. Cir. 1985)).

## ANALYSIS

### CLAIMS 1-6, 8-16, 18-22, 29-40, 42, AND 43

The Examiner finds that Joachims teaches all the limitations of the independent claims. Each claim recites, in pertinent part, “wherein user selection of a query result from a ranked list of the query results causes the selected result to be added to the first set of data and causes the results not selected by the user but ranked higher than the selected result to be automatically added to the second set of data” (or very similar language). Each independent claim further recites that the first set of data is “categorized as relevant to a user’s context” and that the second set of data is “categorized as non-relevant to the user’s context.”

We disagree with the Examiner’s finding of anticipation. Joachims very clearly states that it does *not* categorize links as “relevant” or “non-relevant,” but instead establishes a *relative* relevance scale. Joachims teaches that “[a] click on a particular link cannot be seen as an absolute relevance judgment” (FF 1); that “[w]e will depart from a binary relevance scheme” (FF 2); and that “most work on machine learning in information retrieval ... simplifies the task to a binary classification problem with the two classes ‘relevant’ and ‘non-relevant.’ Such a simplification has several drawbacks . . . Section 2.2 showed that such absolute relevance judgments cannot be extracted from clickthrough data” (FF 3).

We agree with Appellant that Joachims does not teach causing results not selected by the user but ranked higher than the selected result to be automatically added to a set of data categorized as non-relevant. Therefore, the Examiner has not established that Joachims teaches all the limitations of the claimed invention.

We find that the Examiner erred in rejecting claims 1-6, 8-16, 18-22, 29-40, 42, and 43 as being anticipated by Joachims. We will not sustain the rejection.

#### CLAIMS 7, 17, AND 23-28

Each of these claims depends from independent claim 1, 13, or 22. We have reviewed Pazzani and we find that it does not remedy the noted deficiencies of Joachims. Therefore, we will not sustain the § 103 rejection of claims 7, 17, and 23-28, for the reasons given *supra* with respect to independent claims 1, 13, and 22.

#### CONCLUSIONS

Joachims does not teach a search engine tuning component in which user selection of a query result from a ranked list causes the selected result to be added to a first set of data (categorized as relevant to a user's context) and causes the results not selected by the user but ranked higher than the selected result to be automatically added to a second set of data (categorized as non-relevant to the user's context).

#### ORDER

The Examiner's rejection of claims 1-40, 42, and 43 is reversed.

#### REVERSED